



AF / 3711

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Stephen J. Garske

Title: GOLF CUP SLEEVE

Docket No.: 617.039US2

Filed: January 25, 2002

Examiner: Mark Graham

Serial No.: 10/057719

Due Date: February 23, 2004

Group Art Unit: 3711

**MS Appeal Brief**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

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X Appellant's Reply Brief (3 pgs; IN TRIPLICATE).

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

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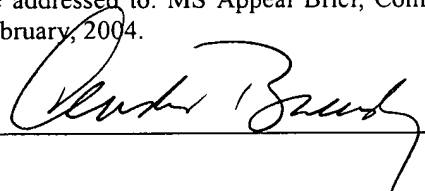
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Candis B. Buending

Name

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Examiner:
	)	
Stephen J. Garske	)	Mark Graham
	)	
Serial No.: 10/057719	)	Group Art Unit: 3711
	)	
Filed: January 25, 2002	)	Docket: 617.039US2
	)	
For: GOLF CUP SLEEVE	) )	

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**APPELLANT'S REPLY BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Reply Brief is presented in response to the Examiner's Answer mailed on December 23, 2003, to Appellant's Brief on Appeal, mailed on October 8, 2003.

The Reply Brief is filed in triplicate. Please charge any required fees or credit overpayment to Deposit Account No. 19-0743.

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### **RESPONSE TO EXAMINER'S REPLY**

In the Examiner's Answer, the Examiner again states that the teachings of the art support a finding of *prima facie* obviousness. The Examiner's Answer states that Browne teaches an easy-to-insert liner and that one skilled in the art would modify the Boyd cup liner in view of the teachings of Browne because "it eliminates the step of having to make sure that the edges of 12 and 13 abut properly and do not overlap to any extent."

This is a hindsight solution to a non-existent problem. Boyd states that to insert his liner, "the strip is over-folded and placed in a hole cup where it will open out under its natural resilience to tightly engage the wall of the cup in the mode illustrated in Fig. 2." (Page 2, lines 25-28). There is no suggestion in Boyd, or in any of the references of record, that the Boyd-type liner is hard to insert. Accordingly, the Examiner is positing a hindsight solution to an unsubstantiated problem to support the rejection.

Appellant again points out that the only teaching in Boyd that is actually relevant to the issue of obviousness is that Boyd teaches away from a seamless design by stating that his "liner is of course reversible." (Page 2, lines 34-35).

Moreover, the Browne reference is simply not analogous or applicable to the real problem at issue. The Examiner's Answer states that Browne and Boyd are analogous art since they are both used to line a golf hole. This is not true. Boyd is used to line a golf cup, while Browne is used to line the golf hole above the cup. These are different situations requiring different functionality. Browne's function is to support the dirt wall over the cup. However, the present invention is not designed to provide any structural support to the golf cup. In contrast, it lines the cup to prevent any nicks and dings so as to prevent having to repaint the cup. The present invention thus performs a completely different purpose than the Browne device, and there is no recognition in Browne or Boyd, or any other reference of record, that a seamless liner is beneficial in a role strictly as a cup liner to prevent dings.

Accordingly, Appellant does not believe a *prima facie* case of obviousness can be supported because there is no suggestion or teaching in the art of a need to modify the Boyd-type cup liners.

Moreover, Appellant again emphasizes that even if a *prima facie* case could be made, the commercial success of the present invention is sufficient to rebut the *prima facie* case.

### CONCLUSION

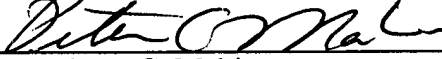
Appellant believes the claims are in condition for allowance and requests reconsideration and reversal of the rejections to the pending claims. Reversal of the Examiner's rejections of the claims in this appeal is respectfully requested.

Respectfully submitted,

STEPHEN J. GARSKE

By his Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH,  
P.A.  
P.O. Box 2938  
Minneapolis, MN 55402

Date 2/23/04 By   
Peter C. Maki  
Reg. No. 42,832

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Candis B. Buending  
Name

  
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